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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

9 LANCE P. McDERMOTT,

10 Plaintiff,

11 v.

12 JOHN E. POTTER,

13 Defendant.
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Case No. C09-0776RSL

ORDER DENYING MOTIONS FOR A
PROTECTIVE ORDER AND FOR
JUDGMENT AS A MATTER OF LAW


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16 This matter comes before the Court on plaintiff's motions for a protective order and for
17 judgment as a matter of law. In the motion for a protective order, plaintiff, who is proceeding
18 *pro se*, requests that the Court limit discovery "to the matter of retaliation" and prohibit
19 defendant from seeking discovery from him except through interrogatories. Motion at pp. 1-2.
20 Despite plaintiff's request, there is no evidence that defendant is seeking discovery from him
21 related to this case. In fact, the Court dismissed this case in September 2009. Therefore,
22 protection from discovery is unwarranted.

23 The fact that the Court has already dismissed plaintiff's case and entered judgment
24 against him also renders inappropriate his request for judgment as a matter of law. Although
25 plaintiff cites Federal Rule of Civil Procedure 50(a), that rule is inapplicable where, as here, no
26 jury trial was conducted. Even if the Court construes his motion as seeking relief under Federal
27 Rule of Civil Procedure 60, plaintiff has not shown any error in the judgment or other grounds

1 for granting relief from the judgment. In his motion, plaintiff contends that defendant
2 erroneously argued in his motion to dismiss that plaintiff failed to file a complaint by a certain
3 date. However, defendant did not make that argument in this case, and the Court did not address
4 the issue in its order to dismiss. Instead, the argument plaintiff cites is found in defendant's
5 motion to dismiss another case plaintiff filed in this district, *McDermott v. Potter*, Case No. C09-
6 1008RAJ. If plaintiff intended to have these motions heard in that case, then he should re-file
7 the motions with that case number instead of this one in the captions.

8 Accordingly, plaintiff's motions for a protective order and for judgment as a matter of law
9 (Dkt. #29) are DENIED.

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11 DATED this 30th day of December, 2009.

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15 Robert S. Lasnik
United States District Judge
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